

Small Business Economic Impact Statement
for chapter 246-260 WAC, Water Recreation Facilities
March 2004

1. Briefly describe the proposed rule.

The rule governs design, construction and operation of water recreation facilities regulated in Washington State. It applies to swimming pools, spas, wading pools, spray pools and public bathing beaches. The rule was last revised in 1992.

The regulations for water recreation facilities covered in WAC 246-260 are to ensure a healthy and safe environment for the users of more than 4000 regulated pool facilities in Washington State. This program is administered jointly by the state and local health jurisdictions.

The proposal repeals most of the existing chapter and reorganizes it to be clearer and easier to use. No changes are proposed for sections –180, Bathing Beaches; -990, Fees; and, -998, Severability. For this reason, these sections are not seen in the proposal and are not considered in this analysis.

2. Is a Small Business Economic Impact Statement (SBEIS) required for this rule?

Yes.

3. Which industries are affected by this rule?

7011: Hotels and motels

7991: Physical Fitness Facilities

7997: Membership Sports and Recreation Clubs

7999: Amusement and Recreation Services, Not Elsewhere Classified

4. What are the costs of complying with this rule for small businesses (those with 50 or fewer employees) and for the largest 10% of businesses affected?

Detailed cost estimates can be found in the accompanying Significant Analysis document. They indicate the following estimated costs of compliance:

Rule Component	Estimated Cost
<i>Lifeguard requirement (WAC 246-260-131(5)(a)(iv))</i>	Cost savings - \$50,000/year
<i>Barriers (WAC 246-260-031(4) and (5))</i>	\$0 - \$17,500 (one-time)
Innovative design (WAC 246-260-021(4))	Cost savings
Main Drains (WAC 246-260-031(8)(e))	Minor
Skimmer Line Drain Grate Protection (WAC 246-260-031(8))	Minor
<i>Spa Pools—Equipment Rooms (WAC 246-260-031(14))</i>	Cost savings - \$600 (one-time)
Ton Chlorine Cylinders (WAC 246-260-031(17)(h))	Minor
<i>Lockers (WAC 246-260-031(20)(a)(v))</i>	\$0 - \$250 (one-time)
Self-Closing Faucets (WAC 246-260-031(21)(f)(iv))	Minor
Showers (WAC 246-260-031(21)(g)(4))	Cost savings
<i>Diaper Changing Stations (WAC 246-260-031(22))</i>	\$0 - \$500
Lighting (WAC 246-260-031(23))	Minor
Diving Boards (WAC 246-260-041(6)(a)(iv))	Significant cost savings (one-time)
Starting Blocks (WAC 246-260-041(6)(b)(ii))	Cost savings
Emergency Phone (WAC 246-260-041(11)(c))	Minor
Spa Pools—Perimeter Requirements (WAC 246-260-051(1) and 246-260-061)	Minor
Spa Pools—Decking (WAC 246-260-051(1) and 246-260-061)	\$0
Spa Pools—Setback from Raised Structures (WAC 246-260-051 and 246-260-061)	Cost savings
Spa Pools—At Transient Accommodation Facilities (WAC 246-260-061)	Cost savings
Spa Pools—In Individual Rooms of Hotels, etc. (WAC 246-260-061)	Cost savings
Wading Pools (formerly WAC 246-260-071)	Cost savings
Recirculating Spray Pools (WAC 246-260-081)	Cost savings
Spray Pools—Maximum Velocity (WAC 246-260-081(3))	Minor
Spray Pools—Bathrooms, etc. (WAC 246-260-081 and 246-260-031)	\$0

<i>Spray Pools—Walkway (WAC 246-260-081(1))</i>	\$0 - \$1,000 (one-time)
<i>Emergency equipment requirements (WAC 246-260-041(11)(g), WAC 246-260-071(7), and 246-260-081(4))</i>	\$0 - \$600 (one-time)
Specialty Design Features (WAC 246-260-091)	Cost savings
Water Quality—Ozone and Copper Silver (WAC 246-260-111(3))	Minor
Water Quality—Minimum and Maximum Disinfectant Levels (WAC 246-260-111(3))	Minor
Water Quality—Testing Equipment (WAC 246-260-111(6)(c))	Minor
Water Quality—And Air Quality (formerly WAC 246-260-070, now WAC 246-260-111(8))	Minor
Water Recreation Facilities—Not in Operation (WAC 246-260-141(2))	Cost savings
Water Recreation Facilities—Abandoned (WAC 246-260-141(5))	Cost savings
Water Recreation Facilities—Variances (WAC 246-260-131)	Cost savings
<i>Water Recreation Facilities—Enforcement (WAC 246-260-201(1)(c))</i>	Cost savings - \$300

5. Does the rule impose a disproportionate impact on small businesses?

Yes: the italicized rule components in the list above are likely to impose a disproportionate cost on small businesses. Although costs for some of these components will probably be higher for larger businesses, the fixed-cost nature of many of these items suggests that costs will be disproportionate for small businesses. Larger businesses, in other words, will be able to spread the costs out among a larger volume of sales (or a larger number of employees).

6. If the rule imposes a disproportionate impact on small businesses, what efforts were taken to reduce that impact (or why is it not “legal and feasible” to do so) by

a) reducing, modifying, or eliminating substantive regulatory requirements?

For lifeguarding requirements for private clubs, mitigating efforts include allowing a lower level of training for lifeguarding in shallow waters. There is also an allowance to only have an attendant, rather than a lifeguard.

The requirement for the emergency shut-off switch and audible alarm for single main drain swimming pools, wading pools and recirculating spray pools represents the least costly alternative for improving protection with single main drain pools.

With regard to the final proposal, it is not feasible to reduce, modify, or eliminate substantive regulatory requirements because of their importance for public health: small facilities need emergency alarms for the same reason that large facilities need them. However, the variance process does provide some flexibility in exceptional circumstances. This process may prove useful, for example, for owners of small spa pools who can demonstrate that they have sufficient access to equipment and do not need an equipment room.

b) simplifying, reducing, or eliminating record keeping and reporting requirements?

Monitoring requirements have been simplified and some have been removed including the need to monitor all hazardous equipment and daily estimation of the number of users. Water quality monitoring requirements have simplified to allow minimum residuals with a wider range of disinfectant in swimming pools and wading pools.

c) reducing the frequency of inspections?

Local health jurisdictions have taken the responsibility for operating permits across the state at this time. Each department establishes their inspection frequency.

d) delaying compliance timetables?

The sections of the regulation dealing with significant financial impact (barriers and emergency shut-off switches for single main drain pools), provide until June of 2008 for facilities to come into compliance.

e) reducing or modifying fine schedules for noncompliance?

While civil penalty provisions exist in the regulations, DOH has not used these to date. The only time civil penalties have been issued by local health jurisdictions is when a pool poses an imminent hazard [e.g. lack of adequate barrier protection, lack of disinfection, etc.] Generally, when civil penalties have been written in the past, they have been removed when compliance is achieved.

f) any other mitigation techniques?

Other mitigations include:

- Removed the 15-foot setback requirement for second floor balconies, etc, for spa and wading pools.

- Skimmer outlets are provided with a wider range for operation, making placement simpler.
- Details for sizing for equipment rooms have been simplified with removal of minimum square foot of surface area. For spas at transient accommodations serving fewer than 15 living units, the requirement has been removed.
- Details for filtration have been relaxed and will defer to third party for application rates for filters.
- Many lighting level requirements have been reduced or eliminated.
- Some items in emergency equipment requirements have been reduced: including size of first-aid kits, blankets, and requirements for reaching pools have been changed to only apply to non-lifeguarded pools.
- Spa pool requirements for smaller motel/hotel/B&B serving fewer than 15 living units have been reduced.
- Spray pool designs will now be allowed that recirculate, without having to be attached to a swimming pool 30,000 gallons more in volume,
- Facilities that are abandoned have an additional option of providing a safety cover rather than just filling the pool.
- The variance process will require going to either the state or local health agency, but will not require written concurrence.

7. How are small businesses involved in the development of this rule?

A member of the private clubs that comes within the size of a small business owner sat on our Task Force with the development of these regulations and provided input on the development of the lifeguard requirements for private clubs.

Other small business owner groups, including those representing hotel, motel association, and mobile home park owners, participated in the committee. Others from the apartment owners and condominium owners were invited to attend, but they chose not to participate.